IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 255 OF 2004

M/s. Art Rubber Industries Ltd. & others. ... Appellants

V/s.

The Municipal Corporation of the City of Nashik ... Respondents

Shri Ashok Gade i/b V.A. Gangal for Respondent no.1

CORAM : ANOOP V. MOHTA,J.

DATED : 11th July, 2007

P.C.

. The appellant being aggrieved by the order of dismissal of their appeal dated 21-8-2003 passed by 5th Additional District Judge, Nashik whereby the judgment and order dated 30-11-1998 passed by the Joint Civil Judge, Nashik has been maintained. In the result the suit filed by the original plaintiff/respondent which has been decreed in following terms is maintained.

" Suit of the plaintiff is decreed.

Plaintiff is entitled to recover an amount of Rs. 42,765.33 from the defendant with future

interest at the rate of 6% p.a. at simple rate from the date of institution of the suit till ralisation of the amount."

2. Both the Courts after considering the statutory provisions as well as facts on the record come to a clear conclusion that the Plaintiff being a Corporation entitled to claim/recover amount of Octroi charges. The Courts have further come to a conclusion that the suit is also within limitation.

3. The entitlement of octroi charges by the original plaintiff-respondent based on rule 14(1) of the Maharashtra Municipality Octroi Rules, and the material available on record has rightly been decreed. The exemption as claimed, without following due procedure and rules has been rightly rejected by the Courts below.

4. The person or party who wants to claim exemption from the provisions of any such law must comply the formalities as contemplated.

5. Having failed to comply with those formalities there is no question of presumption or assumption to claim such benefit of exemption. The Corporation,

therefore, has rightly claimed such arrears of octroi. There is no perversity. The reasoning given by the Courts below is within the framework of law and record. Resultantly, 2nd appeal is dismissed.

[ANOOP V. MOHTA, J.]